

TITLE 16. CALIFORNIA BOARD OF ACCOUNTANCY

NOTICE IS HEREBY GIVEN that the California Board of Accountancy is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at Crowne Plaza Irvine, 17941 Von Karman Avenue, Irvine, CA 92614, at 9:10 a.m. on January 27, 2012. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the California Board of Accountancy at its office not later than 5:00 p.m. on January 23, 2012 or must be received by the California Board of Accountancy at the hearing. The California Board of Accountancy, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 5010, 5018, 5027, 5070.1 and 5134 of the Business and Professions Code; and to implement, interpret or make specific Sections 122, 163, 5010, 5028, 5058.3, 5070.1, 5096, 5109, and 5134 of the Business and Professions Code; the California Board of Accountancy is considering changes to Division 1 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Legislation enacted in 2011 (Stats 2011, ch. 395 (AB 431)) added Section 5070.1 to the Business and Professions Code effective January 1, 2012 allowing the Board to establish, by regulation, a system for placing a license in a retired status for certified public accountants and public accountants who are not actively engaged in the practice of public accountancy or any activity which requires them to be licensed by the Board. This proposal would implement the requirements for obtaining and maintaining such a license in a retired status. The regulatory proposal is as follows:

1. Adopt New Article 2.5 in Division 1 of Title 16 of the California Code of Regulations.

This proposal would add a new Article 2.5 to Division 1 in the California Board of Accountancy's regulations that would be entitled "Retired Status."

2. Adopt Section 15 in Title 16 of the California Code of Regulations.

This proposal would adopt Section 15 in a newly created Article 2.5 regarding retired status. This proposal would allow a licensee to apply to have their license placed in a retired status. This new article would not prohibit a holder of a license in a retired status from receiving compensation or profits from a public accounting firm provided the

licensee does not engage in the practice of public accountancy.

In addition, this proposal states that failure to maintain compliance with this new Article and Sections 5058.3 or 5070.1 of the Business and Professions Code is grounds for discipline of the retired license.

3. Adopt Section 15.1 in Title 16 of the California Code of Regulations.

This proposal would require a licensee to apply for placing their license in a retired status using Form 11R-48 (11/11) which is incorporated by reference. Form 11R-48 (11-11) would include the following:

- (1) Require disclosure of the name, address of record, license number, email address (optional), personal and business telephone number;
- (2) Require disclosure of whether the applicant intends to practice public accountancy with a license in retired status;
- (3) Require disclosure of whether the applicant is aware of any pending or current enforcement action against his or her license;
- (4) Require disclosure of whether the applicant has held a license as a CPA or PA in the U.S. or its territories for a minimum of 20 total years and then require the applicant to provide the state or territory in which the license was held, the license number and the number of years the license was held;
- (5) Require disclosure of whether the applicant held a CPA or PA license in an active status for a minimum of five years;
- (6) Provide a notice regarding collection and use of personal information given on the application; and,
- (7) Require the applicant to certify his or her statements under penalty of perjury.

The proposal would require a licensee to have held a license as a certified public accountant (CPA) or public accountant (PA) in the United States or its territories for a minimum of twenty years, and that five of those years must have been in an active status as a California licensee. Failure to meet the requirements of this new Article and Section 5070.1 of the Business and Professions Code is grounds for denying the application.

The proposal would also require the applicant to pay the application fee set forth in newly proposed Section 70(i)(1).

4. Adopt Section 15.2 in Title 16 of the California Code of Regulations.

This proposal would require the holder of a license in a retired status to continue to renew their license on the same renewal schedule they were on prior to being granted retired status as described in Section 5070.5 of the Business and Professions Code. It exempts a licensee with a license in a retired status from the regular renewal fee and the regular continuing education (CE) requirements.

5. Adopt Section 15.3 in Title 16 of the California Code of Regulations.

This proposal would allow the holder of a license in a retired status to restore that license to an active status at the time of renewal by paying the fee set forth in newly proposed Section 70(i)(2) and complying with the CE requirements of existing Section 87 with a minimum of 20 hours of CE in the year prior to renewal and 12 hours in specific subject areas prescribed in existing Section 88(a)(1).

This proposal would allow the holder of a license in a retired status to restore that license to an active status prior to their next renewal date by paying the fee described in Section 70(i)(2) and completing the CE requirements set forth in existing Section 87.1.

6. Adopt Section 15.4 in Title 16 of the California Code of Regulations.

This proposal limits the number of times a licensee may be granted retired status to two.

7. Amend Section 70 in Title 16 of the California Code of Regulations.

This proposal would set the fee for application for a license to be placed in a retired status at \$100.

This proposal would set the fee for restoring a license in a retired status to an active status on a scale based on the time that has elapsed between the retired status being granted and the time the Board receives a written request for restoration and the restoration fee. The restoration fee begins at \$200 and increases by \$200 for every two years up to the maximum of \$1000.

8. Amend Section 71 in Title 16 of the California Code of Regulations.

This proposal would add an application for retired status to the list of applications that can be abandoned if the applicant fails to complete the application within two years of its original submission or within one year of notification by the Board of any deficiency in the application.

9. Amend Section 87.1 in Title 16 of the California Code of Regulations.

This proposal would ensure that the CE requirements for restoring a license in a retired status to active status prior to renewal are the same as those for converting a license in an inactive status to an active status prior to renewal.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

This bill will create an absorbable fiscal impact to the California Board of Accountancy (CBA).

The CBA will experience a loss in renewal revenue through implementation of the retired status due to the large population of older licensees that will pursue the new option. Much of this loss in revenue will be offset by the same population paying for the \$100 retirement fees as well as delinquent licensees providing revenue in the first year when they wouldn't otherwise have done so. It is estimated that the CBA will lose approximately \$6 million in revenues during this initial 6 year period. The ongoing annual fiscal impact after this initial wave of retirements is projected to be a loss in revenues of approximately \$1 million.

Assumptions:

1. A "start date" of January 1, 2013.
2. The temporary renewal fee reduction of \$120 reverts to its original \$200 amount on July 1, 2015.
3. A licensee must have been practicing a minimum of 20 years to be eligible for the retired status.
4. Licensees who are 62 years of age or older are the population that will apply for the retired status. 50% of CBA licensees will retire upon reaching 62.
5. For each additional year of age, an additional 10% of the group will retire (or 20% of the remaining licensees who did not retire). For example, 60% of licensees 63 years of age will be retired. 70% of licensees 64 years of age will be retired.
6. All delinquent licensees age 62 or older (licensees that have no practice rights and do not pay renewal fees or complete continuing education) will opt for the retired status within the first year of implementation. The law has provisions which allow delinquent licensees to forgo paying any past renewal or delinquency fees if they opt for the retired status within the first year of implementation. Because this provision is only available for the first year, it is not expected that any delinquent licensees will opt for the retired status in subsequent years.
7. The retired status application fee will be a one-time fee of \$100.
8. Licensees who opt for the retired status would have paid renewal fees for 3 renewal cycles (6 years) had there not been an option for the retired status.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Require Reimbursement: None

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination: The only possibility of the proposal impacting businesses is if the application or restoration fees are paid for by a business. The CBA assumes that this will be an infrequent occurrence as this is not a normal cost of doing business.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Board are insignificant.

The population of licensees choosing to apply for retired status must have been in practice for at least 20 years or more. The licensee will need to pay a one-time \$100 fee to apply for "retired" status. Should the licensee desire to practice again, payment of fees up to a maximum of \$1,000 would need to be paid. The regulation permits a licensee to retire/restore twice, however once the licensee restores for the second time, a third retirement is not permitted. It is not expected that many retired licensees will restore their license to an active status and even less would be assumed for a second restoration. Any estimate of restoration fees will be statistically insignificant.

It is assumed that the population of licensees that will be eligible for retirement will be 62 years of age or older. The CBA anticipates a huge influx of individuals to opt for the retired status; in the first year (2013), the CBA projects over 14,000 licensees will retire.

After the initial wave of retirements, it is expected that the population of licensees opting for the retired status will stabilize to approximately 2,000 annually. The one-time retirement fees of \$100 will be offset by the individuals no longer having to pay biennial renewal fees which will be \$120 in 2013, and are expected to be \$200 every two years by the time this stabilization period occurs.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations may affect small businesses if the application or restoration fees are paid for by a business. The CBA is assuming that this will be an infrequent occurrence as this is not a normal cost of doing business.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, including Form 11R-48 (11/11), which is incorporated by reference in this rulemaking, are available on the Board's Internet website at http://www.dca.ca.gov/cba/laws_and_rules/pubpart.shtml and may also be obtained at the hearing or prior to the hearing upon request from the California Board of Accountancy at 2000 Evergreen Street, Suite 250, Sacramento, California 95815.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named in the following section.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named in the following section or by accessing the website listed in the following section.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Matthew Stanley
Address: California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815
Telephone No.: 916-561-1792
Fax No.: 916-263-3678
E-Mail Address: mstanley@cba.ca.gov

The backup contact person is:

Name: Kari O'Connor
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Website Access: Materials regarding this proposal can be found at
http://www.dca.ca.gov/cba/laws_and_rules/pubpart.shtml.